

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY	
Robertson, Anschutz & Schneid, P.L. 6409 Congress Ave., Suite 100 Boca Raton, FL 33487 Telephone Number 561-241-6901 Attorneys For Secured Creditor Miriam J. Rosenblatt (MR – 7505)	CASE NO.: 17-13089-CMG CHAPTER 13 RESPONSE IN OPPOSITION TO DEBTORS' MOTION OBJECTING TO AND MODIFYING PROOF OF CLAIM
In Re: SCOTT GOBEL MICHELE GOBEL, Debtors.	

Wells Fargo Bank, National Association, as Trustee for Option One Mortgage Loan Trust 2007-1, Asset-Backed Certificates, Series 2007-1 (the “Secured Creditor”), respectfully submits this Response in Opposition to the Debtors’ Motion Objecting to and Modifying Proof of Claim (the “Debtors’ Motion”), as follows:

1. On February 17, 2017 (the “Petition Date”), the debtors, Scott Gobel and Michele Gobel (the “Debtors”) filed a voluntary petition pursuant to Chapter 13 of the Bankruptcy Code.
2. The Secured Creditor holds a valid security interest in the Debtors’ real property located at 78 Vacari Way, Little Egg Harbor TW, New Jersey 08087-4026 (the “Property”), by virtue of a certain Mortgage recorded on November 03, 2006 at Instrument number 2006174693 of the Public Records of Ocean County, New Jersey, encumbering the Property and securing the Note in the principal amount of \$480,000.00.
3. On July 5, 2017, a Proof of Claim (“Claim No. 14-1”) was filed on behalf of the Secured Creditor evidencing a secured claim, as of the Petition Date, in the amount of \$356,481.30, inclusive of arrears in the amount of \$44,552.81 (the “Arrears”).

4. As set forth in Part 5 of Claim No. 14-1, the total amount of principal, interest, taxes and insurance owed was in the amount of \$30,903.43¹. This balance consists of the Debtors' default in making principal and interest payment in the amount of \$16,185.26 ("P&I") and taxes and insurance payments in the amount of \$14,718.17 (the "Defaulted T&I Payments").

5. Section 10 of the Real Estate Settlement Procedures Act ("RESPA") discusses escrow shortages and sets limits on the amount of money a lender may require the borrower to hold in an escrow account for payment of taxes, insurance, etc.

6. As of the Petition Date, had the Debtors made all of Defaulted T&I Payments, which they failed to do, there would have been an escrow shortfall in the amount of \$3,849.03 (the "Escrow Shortage"). The total taxes and insurance that were actually advanced by the Secured Creditor was in the amount of \$18,567.20, consisting of the amount of the Defaulted T&I Payments and the Escrow Shortage (the "Escrow Advances").

7. In compliance with Section 10 of RESPA, an Escrow Account Disclosure Statement is annexed to Claim No. 14-1, which sets forth both the amount of both the Escrow Shortage and the required Escrow Cushion.

8. As of the Petition Date, the escrow cushion that was required to be the balance in the Debtors' escrow account was in the amount of \$5,630.57 (the "Escrow Cushion"). Consistent with the ruling of the Third Circuit in the case cited in the Debtors' Motion, Rodriguez v. Countrywide, 629 F3d 136, 142 (3rd Cir. 2010), the unpaid Escrow Cushion constitutes a "claim" for purposes of § 101(5) of the Bankruptcy Code.

9. Furthermore, as of the Petition Date, the Secured Creditor reasonably incurred total fees and costs in the amount of \$4,238.50 (the "Fees and Costs"), consisting of property inspection

¹ In Part 5 of Claim No. 14-1, this sum is reflected in the PITI Due Balance column.

fees, title report fees, foreclosure and related fees, in the total amount of \$3,620.50, late charges in the amount of \$578.00, and returned check fee in the amount of \$40.00.

10. Based on the foregoing, the breakdown of the Arrears set forth in Claim No. 14-1 in the amount of \$44,552.81, consists of: (i) P&I in the amount of \$16,185.26; (ii) Escrow Advances in the amount of \$18,567.20; (iii) the Escrow Cushion in the amount of \$5,630.37; and (vi) Fees and Costs in the amount of \$4,238.50, less the application of funds on hand in the amount of \$68.72.

11. The Secured Creditor is reviewing the Debtors' dispute with respect to taxes paid for the 3rd Quarter of 2015 and will reconcile the account and seek to amend Claim No. 14-1, if appropriate.

12. The Secured Creditor respectfully reserves the right to supplement and amend this response with additional information and documentation.

WHEREFORE, Secured Creditor respectfully requests this Court deny the relief sought in the Debtors' Motion and for such other and further relief as the Court may deem just and proper.

Dated: September 13, 2017

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CERTIFICATION OF SERVICE

1. I, Miriam J. Rosenblatt, represent Wells Fargo Bank, National Association, as Trustee for Option One Mortgage Loan Trust 2007-1, Asset-Backed Certificates, Series 2007- in this matter.
2. On September 13, 2017, I caused a copy of the following pleadings and/or documents to be sent to the parties listed in the chart below. RESPONSE IN OPPOSITION TO DEBTORS' MOTION OBJECTING TO AND MODIFYING PROOF OF CLAIM.
3. I certify under penalty of perjury that the above documents were sent using the mode of service indicated.

September 13, 2017

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<u>Name and Address of Party Served</u>	<u>Relationship of Party to the Case</u>	<u>Mode of Service</u>
Scott Gobel Michele Gobel 78 Vacari Way Little Egg Harbor, NJ 08087	Debtors	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other <hr/> (as authorized by the court*)
Abelson Law Offices Steven J. Abelson 80 West Main Street PO Box 7005 Freehold, NJ 07728	Attorney for Debtors	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other <hr/> (as authorized by the court*)
ALBERT RUSSO Chapter 13 Trusee CN 4853 TRENTON, NJ 08650-4853	Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other <hr/> (as authorized by the court*)
U.S. TRUSTEE ONE NEWARK CENTER STE 1401 NEWARK, NJ 07102	U.S. TRUSTEE	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other <hr/> (as authorized by the court*)